

Notice of Allowability	Application No.	Applicant(s)
	10/811,066	LABRUNO ET AL.
	Examiner Maria Veronica D. Ewald	Art Unit 1722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to 7/11/06.
2. The allowed claim(s) is/are 1-4, 6, 9-14, 16 and 19-25.
3. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some*
 - c) None
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No./Mail Date _____.
 - (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. Notice of References Cited (PTO-892)
2. Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 7/10/06
4. Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. Notice of Informal Patent Application
6. Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. Examiner's Amendment/Comment
8. Examiner's Statement of Reasons for Allowance
9. Other _____.

Allowable Subject Matter

Claims 1 – 4, 6, 9 – 14, 16 and 19 – 25 are allowed. The following is an examiner's statement of reasons for allowance: The cited and closest prior art references of Koppens (U.S. 4,634,362) and Sandberg, et al. (U.S. 4,418,446) fail to teach a mold pattern arranged on one first face of said cavity, said mold pattern comprising open areas and solid areas, said solid areas defining a cross shape and said open areas comprise four open areas.

With respect to the reference of Koppens, Koppens teaches an apparatus for manufacturing annular shaped products. Applicant has persuasively argued in their reply filed July 11, 2006 that the plate of Koppens does not impart any pattern or is not comprised of any mold pattern on one first face of said cavity. The plate (item 13 – figure 4) holds the circular plate (item 16 – figure 4) in place, and thus, an annular recess is formed between the outer boundary wall of the circular plate and the boundary wall of the cavity or hole to be filled (column 3, lines 9 – 12).

With respect to the reference of Sandberg, et al., Sandberg, et al. does teach the formation of a patty, in which the first face of the mold cavity has a pattern which is imparted by rib-forming projections (item 104 – figure 2); however, *the projects only extend in the longitudinal direction and are not in a cross shape with closed and open areas, wherein the open areas comprise four open areas.*

Thus, prior art fails to teach a food patty-forming apparatus for forming food patties from pressurized food product, comprising: a frame; a first surface carried by said frame; a second surface carried by said frame, said second surface spaced from

and facing said first surface; a source of pressurized food product; a mold plate guided to reciprocate longitudinally between said first and second surfaces between a fill position and a discharge position, said mold plate having at least one cavity that is open to said source of pressurized food product through said second surface when in said fill position and that is outside said first and second surfaces when in said discharge position, and a mold pattern arranged on one first face of said cavity, said mold pattern comprising open areas and solid areas, said solid areas defining a cross shape and said open areas comprise four open areas; and a mechanism operatively connected to said mold plate to reciprocate said mold plate between a fill position and said discharge position. In addition, prior art fails to teach a tooling for an apparatus that includes a mold plate having a patty-forming cavity for a food patty-forming apparatus for forming food patties from pressurized food product, the apparatus having a food product delivery configured to delivery pressurized food product into a fill opening, a mechanism operatively connected to said mold plate to reciprocate said mold plate between a fill position wherein said cavity is open to said fill opening to receive pressurized food product, and a discharge position wherein said cavity is exposed, the tooling comprising: a mold plate having a circular cavity having a first open face and an opposite second open face on opposite sides of said mold plate, a mold pattern arranged adjacent said first open face of said cavity, said mold pattern comprising open areas and solid areas, said solid areas recessed from said second open face of said cavity, said open areas including a plurality of circular sectors at least one of which has an included angle of less than 180 degrees.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maria Veronica D. Ewald whose telephone number is 571-272-8519. The examiner can normally be reached on M-F, 8 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Yogendra Gupta can be reached on 571-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MVE

Joseph S. Del Sole
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PRIMARY EXAMINER
9/15/06

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